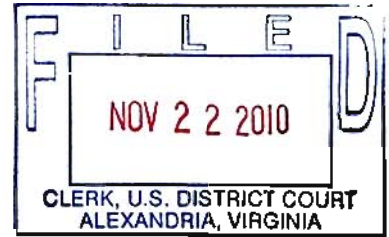


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION



Sheet Metal Workers')	
National Pension Fund,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:10cv495 (GBL)
)	
Complete Comfort Heating)	
& Air Conditioning,)	
Inc.)	
)	
Defendant.)	

MEMORANDUM ORDER

THIS MATTER is before the Court on the October 18, 2010 Report and Recommendation of Magistrate Judge Theresa C. Buchanan regarding Plaintiffs' Motion for Entry of Default Judgment against Defendant Complete Comfort Heating & Air Conditioning, Inc. (Dkt. No. 15.) This case concerns Plaintiff's requests for relief under Sections 502(g)(2) and 515 of the Employee Retirement Income Security Act ("ERISA") (2006).

Plaintiff Sheet Metal Workers' National Pension Fund ("NPF"), is a collective of employee benefit trust funds, multiemployer plans, and employee benefit plans established and maintained under 29 U.S.C. § 186(c) and 29 U.S.C. § 1002(37) (2006). Plaintiff filed this action under Sections 502(g)(2) and 515 of the Employee Retirement Income Security Act ("ERISA"). Complete Comfort Heating & Air Conditioning was a signatory and bound by a Collective Bargaining Agreement with Local Union No. 10, under which it was required to

make contributions to the Fund on behalf of its employees who were covered by the Agreement, as well as to abide by the terms of the Trust Agreement. (Compl. ¶ 9). Plaintiff alleges that on May 1, 2009, Defendant effectuated "complete withdrawal" from the Fund according to § 4203 of ERISA, 29 U.S.C. § 1383 (2006). (Compl. ¶10; Dyer Decl. ¶7). Plaintiff contends it has not received withdrawal liability payments from Defendant (Memo. Supp. Default. J. at 3).

Plaintiff seeks a judgment against Defendant pursuant to § 502(g)(2) of ERISA, 29 U.S.C. § 1132(g)(2), awarding withdrawal liability, interest, liquidated damages, attorneys' fees, and costs as a result of the defendant's withdrawal from the Fund in violation of § 515 of ERISA, 29 U.S.C. § 1145. (Compl. ¶¶1-6; 20).

Plaintiff filed the Complaint on May 12, 2010. Process was served on Defendant on May 19, 2010 to Phil Christiansen at 7610 Jasmine Avenue, South, Cottage Grove, Minnesota 55016. (Dkt. No. 4.) Defendant failed to appear, answer, or file any other responsive pleadings in this matter. (Memo. Supp. Default J. 3.)

On September 17, 2010, Plaintiff filed a Request for Entry of Default with the Clerk's Office. (Dkt. No. 7.) The Clerk entered default as to Defendant on September 20, 2010. (Dkt. No. 8.) On September 24, 2010, Plaintiffs filed a Motion for Default Judgment, and the hearing was conducted on October 1, 2010. (Dkt. Nos. 9, 14.) After Defendant failed to appear at the scheduled October 1, 2010

hearing, the magistrate judge took the case under advisement. (Dkt. No. 13).

Defendant has not responded to the Complaint, and Federal Rule of Civil Procedure 55 allows this Court to grant a Motion for Default Judgment where a party fails to plead or defend against a claim. FED. R. CIV. P. 55.

Magistrate Judge Buchanan recommends that the Court enter default judgment against Defendant, having concluded that the Sheet Metal Workers' National Pension Fund is entitled to recover the following: \$9,773.43 in withdrawal liability; \$609.97 in accrued interest from January 14, 2010 through October 1, 2010; \$1,954.69 in liquidated damages; and \$2,287.96 in reasonable attorneys' fees and costs. Thus, the recommended award total is \$14,626.05.

Additionally, Magistrate Judge Buchanan recommends that if further action is required to enforce and collect this judgment, Plaintiffs may apply to this Court or to the court in which enforcement is sought for further reasonable attorneys' fees and costs in addition to those issued in this Order.

Neither party filed objections within fourteen (14) days after being served with the magistrate judge's recommendation. Therefore, the Court adopts Magistrate Judge Buchanan's Report and Recommendation in toto. Accordingly, it is hereby

ORDERED that default judgment is GRANTED in favor of Plaintiff Sheet Metal Workers' National Pension Fund against Defendant Complete Comfort Heating & Air Conditioning, Inc. in the amount of \$14,626.05. It is

FURTHER ORDERED that if further action is required to enforce and collect this judgment, Plaintiff may apply to this Court or to the court in which enforcement is sought for further reasonable attorneys' fees and costs in addition to those issued in this Order.

The Clerk is directed to enter a separate judgment in favor of Plaintiff Sheet Metal Workers' National Pension Fund against Defendant Complete Comfort Heating & Air Conditioning, Inc. in the amount of \$14,626.05 pursuant to Federal Rule of Civil Procedure 58.

Entered this 22nd day of November, 2010.

Alexandria, Virginia

_____/s/
Gerald Bruce Lee
United States District Judge